

Remarks

The February 23, 2006 Office Action refused to enter an earlier August 5, 2005 drawing amendment, objected to the drawings under Rule 83(a), and raised an enablement concern. In view of the enclosed declaration, the above amendment, and the arguments below, reconsideration is respectfully requested.

Drawing Objection

After discussing the Rule 1.83(a) issue during the interview the examiners did not indicate a continued concern about this and in any event the Examiner's Interview Summary did not note any further requirement relating to this issue. However, in that the examiner's final position on this was not expressly stated during the interview, Applicants have presented the following analysis.

As previously noted, original Figure 2 is a form of illustration of the gel itself. With respect to the Office's stated concern that Fig. 2 depicts the gel as just an empty plane, paragraph (0012) makes clear that Fig. 2 is depicting a three dimensional object, and that this was intended by the double arrow vertical line. Note also the preferred dimension ratio in paragraph (0015) which specifically recites a z dimension greater than zero. Thus, there is already a drawing of the gel, it is three dimensional, and the Rule 1.83(a) requirements should be deemed complied with.

Moreover, whatever concerns there might have been when the claims were drawn to a completely constant rate, this concern should not exist with respect to the present limitation which requires only an essentially constant rate.

It is noted that The Office Action refused to enter the Fig. 3 which had been submitted on August 5, 2005. It is assumed that the Office Action's intention was also to refuse to enter the corresponding August 5, 2005 specification

amendment that described Fig. 3. However, if the August 5, 2005 specification amendment was entered for any reason, it is respectfully requested that this be removed by Examiner's Amendment (for purposes of consistency).

Enablement Rejection

The enablement rejection has been considered carefully and Applicants are making an earnest effort to address the expressed concerns. First, the amended claims now require an essentially constant release rate. An exactly zero order release rate is no longer required.

Further, the enclosed declaration confirms that elongation and tapering of such gels can yield markedly stable release rates as compared to the weight lost rate. The use of the "essentially" limitation is well supported by, for example, the language of the original abstract and the language of paragraph (0015).

Hence, less detail will suffice to enable. Further, in view of paragraph (0015) this limitation is enabled.

With respect to the issue of how infringement is to be judged, a purported infringer could analyze this by measuring the x, y and z parameters of the gel at various times, as well as sampling the content of dispensed air.

Conclusion

In view of the submitted declaration, and the amendment and remarks noted above, reconsideration and allowance of amended claims 1-3 is respectfully requested.

A three month extension petition is enclosed herewith.
Apart from this, no additional fee is believed necessary for
the entry and consideration of this amendment. However, if
one is, please charge the amount of the fee to Deposit Account
10-0849.

Respectfully submitted,

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Dated: August 11, 2006 By: Kristin L. Chapman
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